

**Minges, Allison**

**From:** PSC\_Contact  
**Sent:** Wednesday, November 24, 2021 10:26 AM  
**To:** Minges, Allison  
**Subject:** FW: FOLLOW-UP E-MAIL: Allowable Ex Parte Briefing - 11-19-2021 (DN 2021-349-E)  
**Attachments:** Ex Parte Briefing - Certified Statement (Attendee).docx

**From:** Wessinger-Hill, JoAnne <JoAnne.Hill@psc.sc.gov>  
**Sent:** Tuesday, November 23, 2021 12:42 PM  
**To:** eddym@scccl.org  
**Cc:** Bateman, Andrew <abateman@ors.sc.gov>; Grube-Lybarker, Carri <clybarker@scconsumer.gov>; Hall, Roger <RHall@scconsumer.gov>; fellerbe@robinsongray.com; fellerbe@robinsongray.com; Lisle Traywick <ltraywick@robinsongray.com>; Lisle Traywick <ltraywick@robinsongray.com>; Camal.Robinson@duke-energy.com; Weston Adams <weston.adams@nelsonmullins.com>; pcobb@aarp.org; kmixson@selcsc.org; bwright@burr.com; court.walsh@nelsonmullins.com; Weston Adams <weston.adams@nelsonmullins.com>; Charles L. A. Terreni <charles.terreni@terrenilaw.com>; jamey.goldin@jameygoldin.com; tspeer@turnerpadget.com; Richard@rlwhitt.law; sam.wellborn@duke-energy.com; sam.wellborn@duke-energy.com; PSC\_Contact <Contact@psc.sc.gov>; Stark, David <david.stark@psc.sc.gov>; Boyd, Jocelyn <Jocelyn.Boyd@psc.sc.gov>; Besley, Sharon <sharon.besley@psc.sc.gov>; Wessinger-Hill, JoAnne <JoAnne.Hill@psc.sc.gov>  
**Subject:** RE: FOLLOW-UP E-MAIL: Allowable Ex Parte Briefing - 11-19-2021 (DN 2021-349-E)

Dear Mr. Moore:

In response to your email to the Clerk's Office about an administrative issue concerning the recent allowable ex parte communication briefing referenced above on November 19<sup>th</sup>, 2021, I am attaching another copy of the form for your review, completion, and return. You can attach a copy of your email to Ms. Adams to the Certified Statement Form with the notation of the same in the space provided related to the summary of the briefing.

South Carolina Code Section 58-3-260(B) states that "a commissioner, hearing officer, or commission employee shall not communicate, directly or indirectly, regarding any issue that is an issue in any proceeding or can reasonably be expected to become an issue in any proceeding with any person without notice and opportunity for all parties to participate in the communication, nor shall any person communicate, directly or indirectly, regarding any issue that is an issue in any proceeding or can reasonably be expected to become an issue in any proceeding with any commissioner, hearing officer, or commission employee without notice and opportunity for all parties to participate in the communication."

Notice of the Request for Allowable Ex Parte Communication Briefing was provided and properly posted in accordance with S.C. Code Section 58-3-260(C). The briefing was attended by the Director of the Office of Regulatory Staff (ORS) and her designee. S.C. Code Section 58-3-260(C)(6)(i).

Code Section 58-3-260(C)(6) sets forth the requirement and information about the written certification by all persons concerning the allowable ex parte briefing. If you do not have a copy of the SC Code of Laws (a/k/a statutes), there is a link from the Commission Website ([www.psc.sc.gov](http://www.psc.sc.gov)) on the front page. Go to the Tab entitled "Law and Guidelines" and select "Search SC Code of Laws." The following is information related to the Form and process.

The attached certification statement is required by statute. It will be given to ORS. The Form is where you are stating that:

- (1) there was no commitment, predetermination or prediction of any Commissioner's action as to any ultimate or penultimate issue or any commission employee's opinion or recommendation as to any ultimate or penultimate issue in any proceeding was requested by any person or party nor any commitment, predetermination, or prediction was given by any commissioner or commission employee as to any commission action or commission employee opinion or recommendation on any ultimate or penultimate issue;
- (2) summarized the discussions which were held during the briefing in full in the space below (which refers to the transcript and recording with the materials or power point presentation) or attached a sheet. If you want to attach your email and your comment, please indicate on the form in the space provided.

See S.C. Code Section 58-3-260(C)(6)(a)(ii) & (iii).

With regard to your email and question, it appears from your email that you are not objecting to ORS appearing as the neutral as referenced in the Code Section 58-3-260(C)(6). The email does not appear to be a statement by you asserting that any Commissioner, Hearing Officer, or Commission staff made any commitment, prediction, predetermination, opinion, or recommendation of how the Commission would act or rule with regard to any issue related to the *ex parte* communication briefing subject matter. Your email does not claim that there were any improper statements or questions by any commissioners or commission staff related to the

subject matter of the public briefing by the presenters. Nor does your email claim or assert that there has been a denial by the Commission of any other person requesting an allowable *ex parte* briefing on the same or similar matter. See S.C. Code Section 58-3-260(C)(6)(a)(ii), (iii) & (iv).

The video recording of the November 19, 2021 Allowable Ex Parte Communication Briefing has also been placed on the Commission website. A copy of transcript of the same briefing is being prepared as required by statute and it will also be filed in the DMS.

I hope that this informational email or clarification is helpful to you. Please know that a copy of this email in accordance with Commission policies and procedures, as well as applicable law, is being provided to all parties of record in Docket No. 2021-349-E (which are noted in the email address above) to prevent in potential or possible claim of an alleged *ex parte* communication. This includes a copy of your email as well. These emails will also be posted in the Docketing Management System for Docket No. 2021-349-E.

With kind regards, I am

Jo Anne Wessinger Hill

**C. Jo Anne Wessinger Hill, Esq.**  
**General Counsel to the Commission**  
**Public Service Commission**

State of South Carolina  
 101 Executive Center Drive, Suite 100  
 Columbia, SC 29210

[www.psc.sc.gov](http://www.psc.sc.gov)

Email: [JoAnne.Hill@psc.sc.gov](mailto:JoAnne.Hill@psc.sc.gov)

803-896-5100 (main) | 803-896-5188 (f) | [JoAnne.Hill@psc.sc.gov](mailto:JoAnne.Hill@psc.sc.gov)

The information contained in this e-mail message is public and will be filed in the Docketing Management System (DMS) for the corresponding docketed matter. Any responsive e-mail message by you should also be filed by you in the DMS for this matter. **If the reader of this message does not want certain information, which is meant to be discussed only between the parties and not Public Service Commission of South**

**Carolina (Commission) staff, please do not use “reply all” to this message. Any e-mail message involving the Commission or Commission staff is also subject to the provisions of Commission Order No. 2019-748 in Docket No. 2019-329-A; shall be published in the docket for this matter; and should also be copied to all parties of record in the docket.** If you have received this communication in error, please immediately notify us by telephone at (803) 896-5100.

**EMAIL FROM EDDY MOORE REGARDING ALLOWABLE EX PARTE BRIEFING ON 11/19/2021 – WHICH IS POSTED AS PART OF THE RESPONSIVE EMAIL ABOVE**

**From:** Eddy Moore <[eddym@sccl.org](mailto:eddym@sccl.org)>

**Sent:** Tuesday, November 23, 2021 10:24 AM

**To:** Adams, Hope <[Hope.Adams@psc.sc.gov](mailto:Hope.Adams@psc.sc.gov)>

**Subject:** [External] Re: FOLLOW-UP E-MAIL: Allowable Ex Parte Briefing - 11-19-2021 (DN 2021-349-E)

Hope,

It appears that the Certificate only allows an attendee to certify that the rules were followed. I do not see a space to raise questions as to whether the rules were followed.

At approximately minute 39 of the presentation, it appears that Duke requested that the Commission “use its authority under South Carolina law” to participate in a joint hearing with the NC Commission. This causes me to hesitate about making a sworn statement that Duke didn’t make any prohibited request. Please advise.

Thanks.

**Eddy Moore**  
*Energy Program Director*

o (843) 723-8035 | c (501) 772-5426



COASTAL  
CONSERVATION  
LEAGUE

131 Spring Street · Charleston, SC 29403  
[coastalconservationleague.org](http://coastalconservationleague.org)